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**Apollo Detective, Inc. and Frank Rogers and Local 1,  
Service Employees International Union. Case  
13-CA-061510**

January 10, 2013

**SUPPLEMENTAL DECISION AND ORDER  
BY CHAIRMAN PEARCE AND MEMBERS GRIFFIN  
AND BLOCK**

The Acting General Counsel seeks a default judgment in this case on the ground that the Respondents have failed to file an answer to the amended supplemental compliance specification.

On January 31, 2012,<sup>1</sup> the National Labor Relations Board issued a Decision and Order<sup>2</sup> finding that Respondent Apollo Detective, Inc. (Respondent Apollo) violated Section 8(a)(1) of the Act. The Board ordered Respondent Apollo, in relevant part, to remit to Local 1, Service Employees International Union those dues that it had collected from employees but had not remitted to the Union, in the amount of \$5348, with interest.

A controversy having arisen over whether Frank Rogers (Respondent Rogers), an officer and the sole shareholder of Respondent Apollo, is jointly and severally liable with Respondent Apollo to fulfill the remedial obligations of the Board's Order, the Regional Director for Region 13 issued an amended supplemental compliance specification on September 28, alleging Respondent Rogers to be jointly and severally liable for Respondent Apollo's obligations under the Board's Order.<sup>3</sup>

The amended supplemental compliance specification notified the Respondents that they should file timely an-

swers complying with the Board's Rules and Regulations. Although properly served with a copy of the amended supplemental compliance specification, the Respondents failed to file an answer. By letter dated November 2, the Region advised the Respondents that no answer to the amended supplemental compliance specification had been received and that unless an appropriate answer was filed by November 9, default judgment would be sought. Although properly served with copies of the amended supplemental compliance specification, the Respondents have failed to file an answer.

The amended supplemental compliance specification sets forth the following allegations in support of the contention that Respondent Rogers is jointly and severally liable with Respondent Apollo to fulfill the remedial obligations of the Board's Order. As found in the Board's Decision and Order, 358 NLRB No. 1, *supra*, from January 21, 2011, until it closed about July 17, 2011, Respondent Apollo failed to remit to the Union money that it had deducted from employees' paychecks pursuant to the dues-checkoff provision in its collective-bargaining agreement with the Union and employee checkoff authorizations, and that Respondent Apollo had instead retained the money for itself.

At all material times, Respondent Rogers has been an officer and sole shareholder of Respondent Apollo. At all material times, Respondent Rogers failed to adhere to corporate formalities in the management and direction of Respondent Apollo by: (1) failing to maintain an arm's-length relationship between Respondent Apollo and himself; (2) failing to follow the rules of corporate governance; (3) failing to segregate accounts; (4) diverting corporate funds or assets for noncorporate purposes; and (5) commingling corporate and personal funds and money. The amended supplemental compliance specification further alleges that, based on the conduct described above, adherence to the corporate form would sanction a fraud, promote injustice, or lead to an evasion of legal obligations; the corporate veil shielding Respondent Rogers from personal liability arising from the Board's Order should be pierced; and Respondent Rogers should be held jointly and severally liable for the make-whole remedy of \$5348. The amended supplemental compliance specification additionally alleges that such obligations owing to the Union under the Board's Order will be satisfied by payment to it of the amount of \$5348, plus interest accrued to the date of payment pursuant to the Board's Order.

On November 15, the Acting General Counsel filed with the Board a Motion to Transfer Proceedings to the Board and a Motion for Default Judgment, with exhibits attached. On November 27, the Board issued an order

<sup>1</sup> Unless otherwise noted, all subsequent dates are in 2012.

<sup>2</sup> 358 NLRB No. 1.

<sup>3</sup> On June 26, the Regional Director issued a supplemental compliance specification, which alleged, in relevant part, that the corporate veil shielding Respondent Rogers from personal liability arising from the Board's Order should be pierced, and that Respondent Rogers should be found jointly and severally liable for Respondent Apollo's unfair labor practices. The Respondents failed to file an answer, and on August 29, the Acting General Counsel filed a Motion for Default Judgment with the Board. On September 26, the Board issued an Order denying motion and remanding, denying the motion on the ground that the allegations in the amended compliance specification failed to meet the Board's standard for piercing the corporate veil and imposing personal liability. 358 NLRB No. 151, citing *White Oak Coal*, 318 NLRB 732, 735 (1995), *enfd. mem.* 81 F.3d 150 (4th Cir. 1996). The Board remanded the case to the Region without prejudice to resubmit a motion for default judgment if the supplemental compliance specification was amended to allege facts satisfying the *White Oak Coal* test for imposing personal liability, and the Respondents again failed to answer. *Id.*, slip op. at 2.

amount of \$5348, plus interest accrued to the date of payment.

## ORDER

The National Labor Relations Board orders that the Respondents, Apollo Detective, Inc., Calumet Park, Illinois, its officers, agents, successors, and assigns, and Frank Rogers, an individual, shall make whole the Union in the amount of \$5348, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010).

Dated, Washington, D.C. January 10, 2013

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Mark Gaston Pearce, Chairman

Based on the above, we find that Respondent Rogers is jointly and severally liable for the obligations of Respondent Apollo. We further conclude that the net amount of dues withheld from the Union is as stated in the amended supplemental compliance specification, and we will order that the Respondents remit to the Union dues in the

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Sharon Block,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD